

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 19-1030V
UNPUBLISHED

JAVIER JIMENEZ ROSAS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 28, 2022

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

Jessi Carin Huff, Maglio Christopher & Toale (WA) Seattle, WA, for Petitioner.

Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On July 17, 2019, Javier Jimenez Rosas filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered Guillain-Barre Syndrome (GBS). Petition at 1, 6. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 11, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On November 22, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$205,000.00 for actual and projected pain and suffering and \$563,184.43 to satisfy the State of California Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner the following compensation:**

1. **A lump sum payment of \$205,000.00 for actual and projected pain and suffering in the form of a check payable to Petitioner, Javier Jimenez Rosas.**
2. **A lump sum payment of \$563,184.43, representing compensation for satisfaction of a State of California Medicaid lien, payable jointly to Petitioner and Department of Health Care Services, and mailed to:**

Department of Health Care Services
Recovery Branch - MS 4720
P.O. Box 997421
Sacramento, CA 95899-7421
DHCS Account No: C98455695D-VAC03

This amount represents compensation for all damages that would be available under Section 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

JAVIER JIMENEZ ROSAS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 19-1030V
Chief Special Master Corcoran

PROFFER ON AWARD OF DAMAGES

On July 17, 2019, Javier Jimenez Rosas (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. Petitioner alleges that he suffered Guillain-Barré syndrome (“GBS”) as a result of an influenza vaccine administered on October 10, 2017. Petition at 1. Respondent concluded that petitioner’s alleged injury of GBS satisfied the criteria of the Vaccine Injury Table, and therefore conceded petitioner’s entitlement to compensation in his Rule 4(c) Report filed on June 9, 2020. ECF No. 22. Based on Respondent’s Rule 4(c) Report the Court found petitioner entitled to compensation on June 11, 2020. ECF No. 23.

I. Items of Compensation

A. Pain and Suffering

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of \$205,000.00 for actual and projected pain and suffering, in the form of a check payable to petitioner. This amount reflects that any award for projected pain and suffering has been reduced to net present value. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of California Medicaid lien in the amount of \$563,184.43. This amount represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of California may have against any individual as a result of any Medicaid payments the State of California has made to or on behalf of petitioner from the date of his eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury of GBS suffered on or about November 9, 2017, under Title XIX of the Social Security Act. Petitioner agrees.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

The parties recommend that compensation provided to petitioner should be made through two lump sum payments described below, and request that the Chief Special Master's decision and the Court's judgment award the following:¹

- A. A lump sum payment of **\$205,000.00** in the form of a check payable to petitioner; and
- B. A lump sum payment of **\$563,184.43**, representing compensation for satisfaction of the State of California Medicaid lien, in the form of a check payable jointly to petitioner and:

Department of Health Care Services
Recovery Branch - MS 4720
P.O. Box 997421
Sacramento, CA 95899-7421
DHCS Account No: C98455695D-VAC03

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

Petitioner agrees to receive, endorse, and forward the check to the Department of Health Care Services for satisfaction of the Medicaid lien.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

s/Jennifer L. Reynaud
JENNIFER L. REYNAUD
Senior Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 305-1586
Jennifer.L.Reynaud@usdoj.gov

DATED: November 22, 2022